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February 23, 2009

FIRST REGULAR SESSION
SIXTIETH LEGISLATURE

**FORTY-THIRD LEGISLATIVE DAY
MONDAY, FEBRUARY 23, 2009**

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senators Cameron, Corder, Goedde, Keough, Lodge, Pearce, and Siddoway, absent and excused.

Prayer was offered by Chaplain Henry Webb.

The Pledge of Allegiance was led by Katrina Clayson, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 20, 2009, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senators Keough, Lodge, and Siddoway were recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Cameron, Corder, and Goedde were recorded present at this order of business.

February 20, 2009

The JUDICIARY AND RULES Committee reports that [S 1067](#), [S 1068](#), and [S 1069](#) have been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled [S 1067](#), [S 1068](#), and [S 1069](#) and ordered them transmitted to the House for the signature of the Speaker.

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Jim Yost to the Northwest Power and Conservation Council, term to expire January 15, 2012.

SCHROEDER, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 23, 2009

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

Gavin Gee to the Idaho Endowment Fund Investment Board, term to expire April 11, 2012.

R. John Taylor to the Idaho Endowment Fund Investment Board, term to expire April 11, 2012.

MCKENZIE, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 23, 2009

The STATE AFFAIRS Committee reports out [S 1100](#) with the recommendation that it do pass.

MCKENZIE, Chairman

[S 1100](#) was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 20, 2009

Dear Mr. President:

I return herewith Enrolled [S 1009](#), which has been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled [S 1009](#) was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

President Pro Tempore Geddes called Senator Darrington to the Chair.

The Acting President announced that the State Affairs Committee report relative to the Gubernatorial appointment of Brad Little was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by President Pro Tempore Geddes, seconded by Senator Kelly, the Gubernatorial appointment of Brad Little as the Lieutenant Governor of the State of Idaho was confirmed by voice vote.

The Acting President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Acting President announced that the Commerce and Human Resources Committee report relative to the Gubernatorial appointment of Steve Landon was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Goedde, seconded by Acting Senator Sagness, the Gubernatorial appointment of Steve Landon as a member of the State Insurance Fund Board was confirmed by voice vote.

The Acting President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

Senator Pearce was recorded present at this order of business.

The Acting President announced that [SCR 104](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Bair, seconded by Senator Werk, [SCR 104](#) was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

The Acting President announced that [SCR 105](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Bair, seconded by Senator Werk, [SCR 105](#) was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

The Acting President announced that [SCR 106](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Bair, seconded by Senator Werk, [SCR 106](#) was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

The Acting President announced that [HCR 17](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator McGee, seconded by Senator Werk, [HCR 17](#) was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1123

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PUBLIC UTILITY RATES; AMENDING CHAPTER 5, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-541, IDAHO CODE, TO DEFINE A TERM, TO PROVIDE THAT PUBLIC UTILITY COMMISSION BINDING RATEMAKING TREATMENTS ARE APPLICABLE WHEN COSTS OF A NEW ELECTRIC GENERATION FACILITY ARE INCLUDED IN RATES, TO PROVIDE PROCEDURES AND TO PROVIDE FOR RULES.

S 1124

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO WILDLIFE; AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE FOR CERTAIN WRITTEN AGREEMENTS PRIOR TO TRANSPLANT OR RELOCATION OF BIGHORN SHEEP, TO DELETE REFERENCE TO AN EFFECTIVE DATE, CERTAIN CONDITIONS AND HEARING PROVISIONS, TO PROVIDE FOR NOTIFICATION, TO PROVIDE THAT THE DEPARTMENT OF FISH AND GAME SHALL CONSULT, COORDINATE AND COOPERATE WITH CERTAIN BOARDS OF COUNTY COMMISSIONERS RELATING TO THE TRANSPLANTATION OR RELOCATION OF BIGHORN SHEEP, TO PROVIDE FOR APPROVAL BY CERTAIN BOARDS OF COUNTY COMMISSIONERS, TO PROVIDE FOR PUBLIC HEARINGS, TO PROVIDE AN EXEMPTION, TO DELETE REFERENCE TO CERTAIN AGREEMENTS, TO PROVIDE FOR THE DIRECTOR'S RELOCATION OR CONTROL OF CERTAIN BIGHORN SHEEP, TO PROVIDE AN EXCEPTION, TO PROVIDE A BASIS FOR CERTIFICATION AND TO PROVIDE FOR OBJECTIONS TO THE SUFFICIENCY OF CERTIFICATION, TO REVISE PROVISIONS RELATING TO TESTING FOR COMMUNICABLE DISEASES, TO PROVIDE THAT TEST RESULTS SHALL BE GIVEN TO THE DEPARTMENT OF AGRICULTURE, TO PROHIBIT CERTAIN ANIMALS FROM BEING RELOCATED, TRANSPLANTED OR IMPORTED INTO IDAHO, TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE SHALL PERIODICALLY PROVIDE A LIST OF NEW COMMUNICABLE DISEASES TO THE DEPARTMENT OF FISH AND GAME, TO DELETE REFERENCE TO PROVISIONS RELATING TO THE EMPLOYMENT OF CERTAIN VETERINARIANS BY THE DEPARTMENT OF AGRICULTURE, TO PROVIDE FOR CERTAIN NOTIFICATION IF A COMMUNICABLE DISEASE IS FOUND IN WILDLIFE, AND TO PROVIDE THAT THE STATE VETERINARIAN OF THE IDAHO STATE DEPARTMENT OF AGRICULTURE HAS AUTHORITY OVER THE DISPOSITION OF CERTAIN DISEASED WILDLIFE; AND AMENDING SECTION 25-210, IDAHO CODE, TO REVISE PROVISIONS RELATING TO TESTING FOR COMMUNICABLE DISEASES, TO PROVIDE THAT TEST RESULTS SHALL BE GIVEN TO THE

DEPARTMENT OF AGRICULTURE, TO PROHIBIT CERTAIN ANIMALS FROM BEING RELOCATED, TRANSPLANTED OR IMPORTED INTO IDAHO, TO PROVIDE THAT THE DEPARTMENT OF AGRICULTURE SHALL PERIODICALLY PROVIDE A LIST OF NEW COMMUNICABLE DISEASES TO THE DEPARTMENT OF FISH AND GAME; AND DECLARING AN EMERGENCY.

S 1125
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-408, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE AUCTION OF BIGHORN SHEEP TAGS, TO REVISE PROVISIONS RELATING TO THE DISPOSAL OF BIGHORN SHEEP TAGS BY LOTTERY AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

S 1126
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO THE UNFAIR SALES ACT; REPEALING SECTION 48-405A, IDAHO CODE, RELATING TO THE LIMITATION OF QUANTITY OF ITEMS OFFERED FOR SALE AT RETAIL PROHIBITED.

[S 1123](#), [S 1124](#), [S 1125](#), and [S 1126](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Cameron, granted by unanimous consent, [H 61](#) retained its place on the Third Reading Calendar for Monday, March 2, 2009.

On request by Senator Hammond, granted by unanimous consent, [S 1053](#) was referred to the Fourteenth Order of Business, General Calendar.

[S 1062](#), having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Werk, Winder. Total - 35.

Whereupon the Acting President declared [S 1062](#) passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Hill, granted by unanimous consent, [H 64](#), having been held, retained its place on the Third Reading Calendar for one legislative day.

[S 1076](#), having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McGee arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Werk, Winder. Total - 35.

Whereupon the Acting President declared [S 1076](#) passed, title was approved, and the bill ordered transmitted to the House.

[H 85](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Werk, Winder. Total - 35.

Whereupon the Acting President declared [H 85](#) passed, title was approved, and the bill ordered returned to the House.

[H 86](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Mortimer arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Werk, Winder. Total - 35.

Whereupon the Acting President declared [H 86](#) passed, title was approved, and the bill ordered returned to the House.

The Senate advanced to the Fourteenth Order of Business.

General Calendar

The Acting President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out [S 1056](#), [S 1060](#), [S 1059](#), [S 1017](#), [H 31](#), and [S 1074](#), without recommendation, amended as follows:

SENATE AMENDMENT TO S 1056

AMENDMENT TO SECTION 1

On page 2 of the printed bill, in line 8, following "forth" insert: "by way of sworn affidavit the reasons supporting issuance of the subpoena and why the documents sought are necessary for the investigation,"; in line 13, following "petition" insert: "and affidavit"; in line 17, following "that" insert: "the petition is adequately supported by affidavit,"; and in line 21, delete "deemed in" and insert: "dealt with for".

SENATE AMENDMENT TO S 1060

AMENDMENT TO SECTION 2

On page 1 of the printed bill, in line 38, following "district" insert: "at the time the petition is filed".

On page 2, in line 12 following "cause" delete: "a notice to be published in"; and delete line 13 and insert: "the first notice of the hearing to be published not less than twelve (12) days prior to the hearing and the last notice of the hearing to be published not less than five (5) days prior to the hearing. The notice shall set forth that a petition".

SENATE AMENDMENT TO S 1059

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 10, following "retailers" insert: "up to", in line 11, delete "the" and insert: "the" delete line 12 and insert: "~~director for each lottery game~~ administrative rules".

CORRECTION TO TITLE

On page 1, in line 3, delete "INCREASE" and insert: "REVISE".

SENATE AMENDMENT TO S 1017

AMENDMENT TO SECTION 2

On page 4 of the printed bill, delete lines 18, 19 and 20 and insert: "state of Idaho. ~~Unless the child is otherwise comparably instructed, the parent or guardian shall cause the child to attend a public. To accomplish this, a parent or guardian shall either cause the child to be privately instructed by, or at the direction of, his parent or guardian; or enrolled in a public school or public charter school, including an on-line or virtual charter school or private or parochial school during a~~".

AMENDMENT TO SECTION 3

On page 4, in line 30, delete "comparably" and insert: "~~comparably~~" and following "instructed" insert: "as defined in section 33-202, Idaho Code".

CORRECTION TO TITLE

On page 1, in line 7, following "GUARDIANS" insert: "AND TO PROVIDE A CODE REFERENCE".

SENATE AMENDMENT TO H 31

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 36, delete "~~transferred~~" and insert: "deposited"; and delete lines 37 and 38 and insert: "replacement fund from any other source".

SENATE AMENDMENT TO S 1074

AMENDMENT TO SECTION 4

On page 5 of the printed bill, delete lines 19 through 42 and insert:

- (a) One (1) member shall be specialized/certified personnel appointed by the governor for a three (3) year term;
- (b) One (1) member shall be a director of special education appointed by the governor for a three (3) year term;
- (c) Two (2) members shall be citizens at-large appointed by the governor, each for three (3) year terms;
- (d) One (1) member shall be a parent of a student who is deaf or hard of hearing or blind or visually impaired for a three (3) year term;
- (e) One (1) member shall be a citizen who is deaf or hard of hearing for a three (3) year term;
- (f) One (1) member shall be a citizen who is blind or visually impaired for a three (3) year term; and
- (g) The state superintendent of public instruction shall be chair of the board and shall serve concurrently with the term of office to which the state superintendent is elected.

(3) For purposes of establishing staggered terms of office, the initial term of office for the citizen who is blind or visually impaired and the parent of a student who is deaf or hard of hearing or blind or visually impaired shall be one (1) year, and thereafter shall be three (3) years. The initial term of office for the two (2) members at-large and for the director of special education shall be two (2) years, and thereafter shall be three (3) years. The initial term of office for the citizen who is deaf or hard of hearing and for the specialized/certified personnel shall be three (3) years, and thereafter shall be three (3) years."

The Committee also has [S 1051](#), [S 1055](#), [S 1092](#), and [S 1053](#) under consideration, reports progress, and begs leave to sit again.

Stegner, Chairman

On motion by Senator Stegner, seconded by Senator Bock, the report was adopted by voice vote.

[S 1056](#), as amended, [S 1060](#), as amended, [S 1059](#), as amended, [S 1017](#), as amended, and [S 1074](#), as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

[H 31](#), as amended in the Senate, was filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:01 p.m. until the hour of 11:15 a.m., Tuesday, February 24, 2009.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary